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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/740,072	12/18/2003	Michael L. Howard	2291.2.19.1	2131

21552 7590 03/10/2005

MADSON & METCALF  
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SUITE 900  
15 WEST SOUTH TEMPLE  
SALT LAKE CITY, UT 84101

EXAMINER
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WOO, STELLA L

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/740,072

Applicant(s)

HOWARD ET AL.

Examiner

Stella L. Woo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03-22-2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,697,466. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present continuation application are broader than the claims in the patent, *In re Van Ornum and Stang*, 214 USPQ 761. For example, claim 1 of the present invention is the same as claim 1 of the patent except that it does not recite the use of an audio generation table when converting the status data to audio output. Therefore, claim 1 of the present invention is broader than claim 1 of the patent.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-2, 4-6, 8-10, 12-15, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jenkins et al. (US 5,987,105, hereinafter "Jenkins").

Regarding claims 1-2, Jenkins discloses an embedded device (within home appliance 1; Figure 1), the embedded device comprising:

a processor (controller 2);

an input button (key on the user interface panel; col. 4, lines 61-63);

a speaker (speaker 5; col. 3, lines 47-55);

memory (memory device 4 stores software and status data; col. 3, lines 31-32, 36-44);

and

an audio output generator stored in the memory (executing software stored memory device 4 is used by controller 2 to energize speaker 5 to produce audible tones encoded with status information stored in memory device 4; col. 3, lines 29-60).

Regarding claims 4-6, 12-14, the status data can be whether the drain pump is on, the hot water valve is open, serial number, number of cycles completed, alerts, errors, faults, etc. (col. 3, lines 35-40).

Regarding claims 8 and 17, home appliance 1 can be washing machine, refrigerator, freezer, clothes dryer, dishwasher, stove, microwave ovens, etc. (col. 3, lines 18-25).

Regarding claims 9-10, 15, Jenkins additionally discloses an audio status collector (service center 6) comprising:

an audio decoder (personal computer 13 executes software which enables it to decode the audio electric signals; col. 4, lines 30-33);

a communications module (signal conditioning circuit 15); and

an audio decoding table (Table 1; col. 6, lines 22-34).

Regarding claim 18, note PSTN 12.

Regarding claims 19-20, a cellular telephone can be used at the appliance site in the same manner as handset 9 to transmit the audible data signal generated by loudspeaker 5.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Merriam et al. (US 5,311,581, hereinafter "Merriam").

Jenkins differs from claims 3 and 11 in that it does not specify the signal tones as being DTMF tones. However, Merriam teaches the well known use of DTMF tones (Abstract) to transmit status information such that it would have been obvious to an artisan of ordinary skill to incorporate such use of DTMF tones, as taught by Merriam, within the system of Jenkins for outputting the audible signals.

7. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins in view of Reeder et al. (US 5,729,596, hereinafter "Reeder").

Jenkins differs from claims 7 and 16 in that it does not specify the home appliance as being a television. However, Reeder teaches that it is well known to communicate data from a television as well as a washing machine or microwave oven (identify code from TV 1b as well from WM 1d or  $\mu$ W 1e) such that it would have been obvious to an artisan of ordinary skill to

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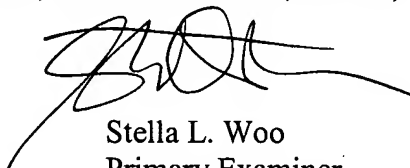
incorporate the use of a home appliance such as a television, as taught by Reeder, within system of Jenkins.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stella L. Woo  
Primary Examiner  
Art Unit 2643